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FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1699

EXAMINER

GUTMAN, HILARY L

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| ART UNIT | PAPER NUMBER |
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3612

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,166

Applicant(s)

HANSEN ET AL.

Examiner

Hilary Gutman

Art Unit

3612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/13/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 17 and 18 are directed to inventions that are independent or distinct from the invention originally claimed for the following reasons: these claims recited a hydraulic system (claim 17) as well as a pneumatic system (claim 18) for the first and second driving systems which is patentably distinct from the mechanical gearing system originally presented.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17 and 18 are hereby withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

3. The drawings were received on 4/9/04. These drawings are acknowledged by the examiner.

Art Unit: 3612

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flexible torque transfer shaft of claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

5. Claims 1, 5, and 9 are objected to because of the following informalities:

In claim 1, line 7, "opposite sides" should be "the opposing sides".

In claim 5, on line 13, "a first side" should be "the first side". On line 15, "a second side" should be "the second side".

In claim 9, a period should be inserted at the end of the sentence.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by De Gaillard.

De Gaillard (6,568,732) discloses a protective device for a motor vehicle comprising a flat sheet 9 which is movably supported between a compactly rolled-up rest position (Figure 2) and a pulled-out deployed position (Figure 1), the flat sheet 9 being supported over its pull-out path in guideways 8 in opposing sides of the vehicle, wherein two powered drive systems 17, 17, are associated with the flat sheet on the opposing sides thereof, the powered drive systems 17, 17 being connected to one another through a mechanical synchronization gearing assembly 20, 21 to be synchronously driven.

With regard to claim 2, the synchronization gearing assembly 20, 20, 21 comprises an elongated transfer device 20, 20 coupled to the two drive systems.

With regard to claim 3, the transfer device 20, 20 comprises a flexible push and pull device.

With regard to claim 4, the transfer device comprises a flexible torque transfer shaft coupled to drive shafts 18, 18 of the two drive systems.

8. Claims 5-11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Crisp.

Crisp (6,003,920) discloses a protective device (as seen in the figure) in a motor vehicle comprising: a flat sheet 12 (dashed lines) that is movably supported between a compact, rolled-up rest position (inherent, not shown) and a pulled-out deployed position (the figure); a first guideway F in a first side of the vehicle and a second guideway F in a second opposing side of the vehicle, the first and second guideways for receiving and supporting the flat sheet along its pull-out path; a first strand 18 in the first guideway on the first side of the vehicle secured to the flat sheet; a second strand 18 in the second guideway on the second side of the vehicle secured to

Art Unit: 3612

the flat sheet; a first driving system 16, 25 on the first side of the vehicle for moving the first strand; a second driving system 16, 25 on the second side of the vehicle for moving the second strand; and a mechanical synchronization assembly S, 27 for ensuring that the first and second driving systems are synchronized.

With regard to claim 6, the mechanical synchronization assembly comprises a mechanical synchronization gear assembly S, 27 connected to the first driving system on the first side of the vehicle and connected to the second driving system on the second side of the vehicle.

With regard to claim 7, the first and second drive systems each comprise a drive motor 25 having a drive shaft 24.

With regard to claim 8, each drive shaft includes a drive pinion 22 for moving the respective pull strand.

With regard to claim 9, each drive pinion mates with a corresponding part of the mechanical synchronization gearing assembly S, 27 to ensure that the first and second drive systems are synchronized.

With regard to claim 10, the mechanical synchronization gearing assembly comprises a rack 23.

With regard to claim 11, the mechanical synchronization gearing assembly comprises a flexible push and pull device, such as a rack 23.

For claim 13, Crisp discloses a protective device in a motor vehicle comprising: a flat sheet 12 that is movably supported between a compact, rolled-up rest position and a pulled-out deployed position (the figure); a first driving system 16, 25 on a first side of the vehicle; a second driving system 16, 25 on a second side of the vehicle; a first pull strand 18 on the first

Art Unit: 3612

side of the vehicle secured to the flat sheet and controlled by the first driving system; a second pull strand 18 on the second side of the vehicle secured to the flat sheet and controlled by the second driving system; and a mechanical synchronization gearing assembly S, 27 connected to the first driving system on the first side of the vehicle and connected to the second driving system on the second side of the vehicle to ensure that the first and second driving systems are synchronized.

With regard to claim 14, the first and second driving systems each comprise a drive motor 25.

With regard to claim 15, each drive motor includes a drive shaft 24.

With regard to claim 16, each drive shaft includes a drive pinion 22 for moving the respective first or second pull strand.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out

Art Unit: 3612

the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Crisp as applied to claim 7 above, and further in view of De Gaillard.

Crisp lacks the mechanical synchronization gearing assembly comprising a flexible torque transfer shaft coupled to the respective drive shafts of the first and second drive systems.

De Gaillard teach the desirability of flexible drive cables or torque shafts for use with a synchronized gearing assembly for a protective vehicle device. Specifically, when flexible drive cables or torque shafts allow for flexibility in the positioning or location of a drive motor which moves the shafts. The drive motor can be located away from the protective vehicle device at convenient or out-of-sight locations but still provide for movement thereof.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided flexible torque shafts as taught by De Gaillard in place of the mechanical synchronization gearing assembly of Crisp in order to provide a drive motor controlling and moving the shafts in a more convenient location.

Response to Arguments

12. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 3612

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1134.

16. **Any response to this final action should be mailed to:**

Box AF

Assistant Commissioner for Patents

Washington, D.C. 20231

or faxed to:

(703) 872-9327, (for formal communications; please mark "EXPEDITED
PROCEDURE")

or:

(703) 746-3515, (for informal or draft communications, please clearly label
"PROPOSED" or "DRAFT").

A handwritten signature in black ink, appearing to read "D. Dayoan", with a stylized flourish extending from the end.

D. GLENN DAYOAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600